REGULAR
COUNCIL MEETING
January 18, 1988

The regular meeting of the Elkton Town Council was held January 18, 1988 at 8:00 P.M. in the council chambers with the Mayor Charles E. Dean presiding. The following council members were present: R. E. Davis, B. B. Holt, H. W. Leap, H. A. Leet and L. C. Life. R. L. Snow was absent. Norma Leap, Clerk, Gerald Monger, Superintendent, and Wayne Weaver were also present. Warren Pence, Chief of Police was in attendance for the last part of the meeting.

Mrs. Barbara Dean of 116 Lucas Lane was present regarding three items. The first was the trash situation at the John Christophel apartments. It was her understanding that Mr. Christophel was to build some type of container for the trash. The town ordinance states that trash is to be out on the street or in the alley by 7:30 A.M. the day of collection and containers shall be removed from the sidewalk, curb, street or alley not later than noon of the day following the day of collection. Trash is being set out all during the week, according to Mrs. Dean, at the Christophel apartments thus creating a health hazard, plus looking terrible. She has talked with Mr. Monger about this problem and Mr. Monger stated he talked with Mr. Christophel before and after construction of the apartments and told him something needed to be done. Nothing has been done as yet. Councilman Holt stated his committee was responsible for garbage collection and he could assure Mrs. Dean that something would be done.

The second item was the parking at these apartments. When the plans for these apartments were presented they showed a common entrance to the parking lots for the two buildings. The plans also showed a five foot area of grass between the lane and the parking lot, except for the entrance. They have paved all the way to the lane and the spaces are marked off. The residents there do not always use the entrance. They are backing up in the lane, backing out the lane, onto other people's property and generally parking anywhere. Councilwoman Life stated she has been out and reviewed the situation. She had seen the trash but she was not aware of the common entrance. She stated she would go back and look at this problem and the Street Committee will see what can be done.

The third item was that Mrs. Dean and her husband could hardly get out the lane tonight because of parking at the Bethel parsonage on the corner. Cars were parked all the way up to the corner in the street. She thought there was an ordinance regarding parking fifty feet from the corner. It was very hard to negotiate the turn to get out of Lucas Lane. Council assured Mrs. Dean that her complaints would be looked into.

Councilman Holt requested that it be included in the minutes of the Public Hearing that he had explained to those present, in regards to the amendment to Section 6-2-3, that eventually in the form council would finally pass, they would have a section that would make it quite clear that any such change would be recommended by the Planning Commission and final action would be by council. Councilman Holt stated he does have the phraseology that will be used.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt and carried to approve the minutes of the Regular Meeting December 21, 1987 as presented and the Public Hearing January 14, 1988 as amended.

Mr. Monger reported that in regards to Virginia Municipal Electric Association No. 1, a wheeling contract has been negotiated with Vepco but something that will be coming up in the next month or so is whether the council would be willing

to buy power from VMEA No.1 rather than Virginia Power. It is a decision that will have to be made so council should be giving it some thought. If more information is needed, council members should contact Mr. Monger.

Mr. Monger reported that the meeting of the Rockingham Municipal League meeting will be held Wednesday January 20th. at 7:30 P.M. at the Timberville Municipal Building. Councilman Holt stated that he talked with the Mayor of Timberville and suggested they invite the Board of Supervisors to the meeting. There are some new members on the board and they are starting a new year. The Mayor thought this was a good idea and the supervisors and Mr. Bill O'Brien have been invited.

Councilman Holt reported that the Planning Commission met after the Public Hearing and reviewed what they had heard at the Public Hearing and what they knew. He explained the things they considered and presented the following recommendation from the Planning Commission to council:

> "The Elkton Planning Commission recommends that the pedestrian easement on lots 66 and 67, Elkwood Subdivision be vacated, provided that a similar easement be arranged on lot 70 or on lots 70 and 69, the new easement to be operative only if the property marked Elkwood Park on the preliminary plan of the Elkwood Subdivision (dated April 8, 1974, revised April 14, 1975 and February 27, 1978) becomes a public recreation area. If development of the recreation area is not commenced within fifteen (15) years of approval of the new easement by the Elkton Town Council, this new easement shall be null and void."

Mr. Holt explained the rationale behind the recommendation.

Mr. Hillsman spoke regarding the legal mechanics of putting the proposed easement in place. He stated that he feels Mr. Dean and his associates are interested in the concept of the proposal. This proposal would allay Mr. Dean's fears of people coming back on land that they do not want them on. It also would protect the people who want the easement maintained, by the triggering mechanism of the option if a public recreation area is developed. Mr. Hillsman pointed out that Mr. Dean has expressed some concern regarding the width of the easement. Mr. Hillsman stated he feels a five foot easement would be sufficient. This, of course, would be between the town and the Deans.

Councilman B. B. Holt moved to adopt the following ordinance which vacates a portion of a recorded plat of Section One of the Elkwood Subdivision contingent upon the town working out an arrangement with Mr. Dean for a replacement easement:

AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF ELKTON, VIRGINIA
VACATING A PORTION OF A RECORDED PLAT OF SECTION ONE
OF THE ELKWOOD SUBDIVISION

WHEREAS, the recorded plat of the Elkwood Subdivision provides for a pedestrian easement ten feet in width along the boundary of Lots 66 and 67; and,

WHEREAS, upon the application of an interested person, a public hearing pursuant to Section 15.1-431 of the Code of Virginia was held on January 14, 1988, after due notice as required therein:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA:

Section 1. There is hereby adopted by the town council this ordinance as a miscellaneous ordinance.

Section 2. Pursuant to Section 15.1-482 of the Code of Virginia that portion of a certain plat dated October 3, 1975, entitled "Elkwood Section 1", which portion shows a pedestrian easement ten (10) feet in width along the boundary of Lots 66 and 67, is hereby vacated. This ordinance shall not affect any other portion of the plat.

This ordinance shall be in effect from and after the 18th. day of January, 1988.

The motion died due to a lack of a second.

Councilman Leap stated he feels the Planning Commission is wise to keep thought for a recreation area in Elkwood. The town has about a mile of right-of-way from Memorial Park to the Shenandoah River which they have had ever since they have had Memorial Park, without any fifteen year contingency on it. There has been talk about a recreation area going from Memorial Park to Riverside Park, which is an area that the town has at the river. There are plans for foot trails going from Riverside Park all the way up the property that the Gable's Hotel used to set on, which the town didn't have but has now, from there all the way up to bottom land at Ms. Kite's and on up the creek. All this is planned for the future. You never know if it is going to happen but some of the planning has happened. Councilman Leap stated he wants an easement up in Elkwood somewhere. The easement there was planned into a neighborhood recreational area; this is a pedestrian easement. There may never be a recreational area there but you have to plan for it. He feels that the easement was on the land when it was purchased so this is the purchaser's problem. Councilman Leap stated he could not understand why the easement cannot be moved to the west end of Lot 67 and the owner go ahead and build his garage. He would have no problem with an option contingent upon a recreation area being developed but not with a fifteen year time limit. He also pointed out that a five foot easement is not practical, due to maintaining the easement.

Councilwoman Life was in agreement with Councilman Leap and stated she feels the present easement is centrally located.

Councilman Leet was concerned that although the recommendation by the Planning Commission is satisfactory with the TerHaar's and the Dean's, council does not know if it's satisfactory with the major portion of the people who live in Elkwood. He feels council needs to be careful about setting limits regarding a park being developed at the original spot as it might not be developed there but in another area.

Mrs. Hazel Crider stated that however council decides on this issue she feels they will abide by it. She would prefer the easement be on the west end of the lot as it is centralized and she does not want it moved to Lot 70. She does not feel any of their people do.

Councilman Holt stated that the last thing the Planning Commission said to him before their meeting closed was that if council couldn't work out anything satisfactory, then they would just as soon vacate the easement as it goes nowhere.

Councilwoman L. C. Life moved, seconded by Councilman R. E. Davis to pass a resolution that a ten (10) foot pedestrian easement on Lots 66 and 67 be moved to the west side of Lot 67 in Section 1 of the Elkwood Subdivision contingent upon permission of Bill and Cheryl TerHaar.

There was further discussion regarding making this contingent upon a recreational area being developed and possibly a time limit.

Councilwoman L. C. Life moved, seconded by Councilman R. E. Davis to amend the motion to include that the new easement to be operative only if part or all of the property becomes a public recreation area.

Mr. Dean stated that when he sold these lots he thought he was giving the buyers a clear title. He was not aware of the easements. Mr. Dean said he, and he felt his partner would agree, would be willing to give five (5) feet west of Lot 69 for a pedestrian easement. He feels five feet is a large enough easement. He also stated that he feels that if the Elkwood land owners want to buy this area for a park, he and his partner would sell it to them at a reasonable price. He said he would like to see Mr. TerHaar have a clear title to his property. Mr. Dean stated that if it can be legally done, and they can be protected, even though he and his partner plans to post "No Trespassing" signs, he would be willing to give anyone in Elkwood a permit to go back and use this land.

The vote was taken and recorded as follows:

Davis	- yea	Leet	- yea
Holt	- nay	Life	- yea
Leap	- yea		

There were no comments or questions on the Public Safety report. There has still been no official notice on the 911 System.

Mayor Dean reported that the Rescue Squad has asked if the town would be willing to donate the $2400.00 as the town has in the past for gasoline. In the last several years this has come from the Revenue Sharing monies but we are no longer receiving Revenue Sharing funds and we did not put it in our budget this year.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to approve the First Reading to give the Rescue Squad $2400.00 for gasoline. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea		

Councilman B. B. Holt moved, seconded by Councilman H. W. Leap to sponsor a student from Spotswood High School to the Model General Assembly at a cost of $125.00. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea		

Councilman H. W. Leap moved, seconded by Councilwoman L. C. Life and carried to accept the audit report as presented.

Councilman B. B. Holt moved, seconded by Councilman H. A. Leet and carried to approve the Finance Report for the month of December.

Councilman B. B. Holt moved, seconded by Councilman H. W. Leap and carried that council recommend to the court the reappointment of C. J. Davis to the Board of Zoning Appeals.

Councilman Leet reported on the water line under the railroad. They have all the approvals but it will take a few days to work out all the details with the railroad and get the work done. Mr. Monger stated we probably won't have to get any additional insurance but if we do it should not run over $100.00.

Councilman Leet reported that the State Health Department did come in and examine the fluoride system. They found a few things which need to be changed. These should be done rather quickly. They will probably come back after this is complete and make a trial run of the system.

Councilman Leet reported on the sewer line between Shenandoah Avenue and First Street. Mr. Monger has found out that slip lining may not be advisable so he is getting prices on possibly replacing the line. Mr. Monger is also concerned about the line between the tracks and the triangle and feels this should probably be replaced at the same time. This will probably be a pretty expensive project.

Councilman B. B. Holt moved, seconded by Councilman H. W. Leap to approve on Second Reading the amendment to Section Two and Four of the Zoning Ordinance of Elkton, Va. as printed in the minutes of the regular meeting December 21, 1987. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea		

Councilman Holt stated that the new ordinance requires a fee being charged for application for a bed and breakfast. The fee is to be determined from time to time by council. They had originally considered $50.00 but in talking with Mr. Monger this would not cover advertising costs so they are proposing a fee of $100.00.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to set the fee for appliation for a bed and breakfast permit at $100.00. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea		

Councilman Holt reported that AAA of Virginia has written a letter to Mayor Dean stating they are trying to get the General Assembly to enact a covered-truck law, which would force trucks carrying rocks, gravel, sand, and similar materials to cover their loads before going onto a public road. Uncovered trucks pose a safety hazard to motorists, damage to other vehicles and create highway litter. They are asking that council support a motion in the Virginia General Assembly to require the covering of trucks.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life and carried to approve the following resolution:

RESOLUTION

WHEREAS, uncovered trucks carrying dirt, sand, gravel, rocks, garbage and other materials susceptible to being blown, dropped, spilled or leaked onto the public roadways may travel the streets of the Town of Elkton, and

WHEREAS, such materials may present a hazard to the persons and damage to the property of the citizens of the Town of Elkton and may litter the streets of our town,

THEREFORE BE IT RESOLVED THAT

The Virginia General Assembly should pass legislation requiring the covering of trucks loaded with dirt, sand, gravel, rocks, garbage, or any other material susceptible to being blown, dropped, spilled, or leaked onto the public roadways.

Agricultural products should be exempted. Also, the law should not prohibit the necessary spreading of any substance connected with highway maintenance, construction, or snow removal.

Councilman Holt reported that the Planning Commission had considered all three of the items that were presented at the Public Hearing and they recommended approval of the bed and breakfast and the subdivision ordinance also with the modifications which will be presented tonight.

Councilman Holt stated that he had mentioned at the last meeting that he feels it is only fair that council establish some sort of policy prohibiting smoking in council chambers during council meetings. He realizes that this may create some problems but feels they can be worked out. He has since received information, which he did not solicit, supporting this action.

Councilman B. B. Holt moved, seconded by Councilman H. A. Leet that it be the policy of this council that during council meetings smoking be prohibited.

Councilwoman Life stated that one thing that bothered her is that no one told her about this being brought up before the last meeting. She said there are some laws she does not like, like fastening her seat belt, but it is a law and she will abide by it, as she will abide by no smoking. One thing that does bother her is that this is a public building, is for the people of Elkton and if they want to smoke it is up to them. She feels all that has to be done is put up "No Smoking" signs. You do not have to have a resolution or a motion. Just like when council was discussing fixing the front porch, it was decided this was something that council should do and council does not need to have it on the books. She feels the same way about smoking. This is such a small thing, we do not need it on the books.

Councilman Holt pointed out that this motion would apply to council meetings only.

Mayor Dean stated he did not feel we need to include providing smoke breaks in the motion as any council member can ask for a break if they so desire.

The vote was taken and recorded as follows:

Davis	-	yea	Leet	-	yea
Holt	-	yea	Life	-	nay
Leap	-	yea			

Mayor Dean called for a short break.

Mayor Dean called the meeting to order and announced that council does have an agreement with the TerHarrs.

Mr. Davenport explained that the agreement signed by the TerHaars states that they agree to give Elkton an option of perpetual length for Elkton to have a ten (10) foot wide pedestrian easement along the west side of Lot 67 and the conditions of the easement may only be requested by Elkton if it would serve a public recreation area located on land which is now undeveloped, generally lying north of Lot 67. The TerHaar's obligation to grant this option is conditioned on Elkton vacating the present pedestrian easement located along the boundary of Lot 66 and Lot 67.

Mr. Davenport stated that if council passes a resolution authorizing the Mayor to sign the agreement then the Town would have an agreement with the TerHaars and could go ahead tonight and pass the ordinance to vacate the present easement. The TerHaars would then be obligated to promptly grant the Town this option which could be recorded along with a draft

of the easement as an attachment to it but not executed. If and when the condition of a public recreation area ever exists, and the town requests the easement, it would be there and there would be no questions on what the terms would be. This is binding on any successors of the TerHaars.

Councilwoman L. C. Life moved, seconded by Councilman H. W. Leap and carried to authorize the Mayor to sign the agreement with William and Cheryl TerHaar.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to approve the following ordinance vacating a portion of a recorded plat of Section One of the Elkwood Subdivision:

AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF ELKTON, VIRGINIA
VACATING A PORTION OF A RECORDED PLAT OF SECTION ONE
OF THE ELKWOOD SUBDIVISION

WHEREAS, the recorded plat of the Elkwood Subdivision provides for a pedestrian easement ten feet in width along the boundary of Lots 66 and 67; and,

WHEREAS, upon the application of an interested person, a public hearing pursuant to Section 15.1-431 of the Code of Virginia was held on January 14, 1988, after due notice as required therein:

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA:

Section 1. There is hereby adopted by the town council this ordinance as a miscellaneous ordinance.

Section 2. Pursuant to Section 15. 1-482 of the Code of Virginia that portion of a certain plat dated October 3, 1975, entitled "Elkwood Section 1", which portion shows a pedestrian easement ten (10) feet in width along the boundary of Lots 66 and 67, is hereby vacated. This ordinance shall not affect any other portion of the plat.

This ordinance shall be in effect from and after the 18th. day of January, 1988.

The vote was recorded as follows:

Davis	-	yea	Leet	-	yea
Holt	-	yea	Life	-	yea
Leap	-	yea			

Councilman Holt stated that part of the minutes read at the last meeting was giving council permission, in the subdivision ordinance, to combine two lots without going through the whole procedure. At the same time it was stated that council would provide legal phraseology to make it quite clear that this, and some other exceptions in that particular subdivision ordinance, would require that all action of that sort taken by the Planning Commission would be at the recommendation of the Planning Commission and final action would be by council. Councilman Holt read the following proposed amendment to Section 6-2-11 of the Code of Ordinances:

AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF ELKTON, VIRGINIA
AMENDING SECTION 6-2-11 OF THE CODE OF ORDINANCES

Be it Ordained by the Town Council of the Town of Elkton, Virginia:

Section 6-2-11 of the Code of Ordinances is hereby amended to read as follows:

Sec. 6-2-11 Administrator.

(a) The agent appointed by the governing body is hereby delegated to administer this chapter; however, the agent shall notify the governing body within two (2) working days of approval or disapproval of any subdivision or decision by the agent to permit the separation, division or combination of land as provided in Section 6-2-3 (33) (a), (c) or (d), and the governing body may disapprove, modify or return such action at any time no later than its next regular meeting. The governing body shall notify the agent within two (2) working days of any of the above actions taken.

(b) If the agent is not the planning commission, the agent shall consult with the commission on matters contained herein.

This ordinance shall be in effect from and after the 18th. day of January, 1988.

Councilman Holt stated that the Planning Commission has approved this amendment to Section 6-2-11.

Councilman B. B. Holt moved, seconded by Councilman H. A. Leet to approve the amendment of Section 6-2-3 of the Code of Ordinances of the Town of Elkton as printed in the minutes of the last meeting December 21, 1987 and the amendment of Section 6-2-11 of the Code of Ordinances as printed above. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea		

As there was no further business, the meeting adjourned.

MAYOR: Charles E. Dean
Charles E. Dean, Mayor

RECORDER: Norma R. Leap
Norma R. Leap, Clerk